

ESTTA Tracking number: **ESTTA577259**

Filing date: **12/18/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	JetBlue Airways Corporation
Granted to Date of previous extension	12/22/2013
Address	27-01 Queens Plaza North Long Island City, NY 11101 UNITED STATES
Attorney information	Mary Sotis Frankfurt Kurnit Klein & Selz PC 488 Madison Avenue New York, NY 10022 UNITED STATES pto@fkks.com Phone:212-980-0120

Applicant Information

Application No	85833347	Publication date	06/25/2013
Opposition Filing Date	12/18/2013	Opposition Period Ends	12/22/2013
Applicant	ANDREW M. RESS AND ASSOCIATES, M.D., P.A. 6877 SW 18th Street Boca Raton, FL 33433 FL		

Goods/Services Affected by Opposition

Class 039. First Use: 2013/01/25 First Use In Commerce: 2013/01/25
All goods and services in the class are opposed, namely: Organization of travel for plastic surgery procedures

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2451955	Application Date	07/09/1999
Registration Date	05/15/2001	Foreign Priority Date	NONE
Word Mark	JETBLUE AIRWAYS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Transportation of passengers, parcels, freight and cargo by air; providing information about air transportation via a website on a global computer network; travel agency services, namely, making reservations and bookings for transportation; airline passenger services in the nature of a frequent flyer program

U.S. Registration No.	4289126	Application Date	07/18/2012
Registration Date	02/12/2013	Foreign Priority Date	NONE

Word Mark	JETBLUE
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Design Mark	
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Description of Mark	The mark consists of the word "JETBLUE" in blue stylized lettering.
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Goods/Services	Class 039. First use: First Use: 2009/10/13 First Use In Commerce: 2009/10/13 Air transportation services, namely, transportation of passengers, parcels, freight and cargo by air; providing travel information services featuring travel offers and vacation travel tour activities; transportation services featuring a frequent flyer bonus program; providing automated check-in and ticketing services for air travelers; travel agency services, namely, making reservations and bookings for transportation, cruises and vehicle rentals; arranging of cruises; air and boat transportation services, featuring a frequent traveler incentive and award program for travelers in the nature of travel discounts
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U.S. Registration No.	4338485	Application Date	09/26/2012
Registration Date	05/21/2013	Foreign Priority Date	NONE

Word Mark	JETBLUE
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Design Mark	
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Description of Mark	The mark consists of a tailfin of an airplane, with the small dots in the color light blue and with the remaining background in the color dark blue, and with the word "JETBLUE" in stylized white lettering. The broken lines are not part of the mark and serve only to show the position of the mark on the tailfin of the airplane.		
Goods/Services	Class 039. First use: First Use: 2000/06/03 First Use In Commerce: 2000/06/03 Air transportation services, namely, transportation of passengers, parcels, freight and cargo by air		

U.S. Registration No.	4338484	Application Date	09/26/2012
Registration Date	05/21/2013	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	The mark consists of a tailfin of an airplane, with interlocking diamond shapes in the colors light blue and dark blue, and with the word "JETBLUE" in stylized white lettering. The broken lines are not part of the mark and serve only to show the position of the mark on the tailfin of the airplane.		
Goods/Services	Class 039. First use: First Use: 2000/01/28 First Use In Commerce: 2000/01/28 Air transportation services, namely, transportation of passengers, parcels, freight and cargo by air		

U.S. Registration No.	4338483	Application Date	09/26/2012
Registration Date	05/21/2013	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	The mark consists of a tailfin of an airplane, with the top stripe in dark blue, the second stripe in sky blue, the third stripe in light blue and the bottom stripe in dark blue, and with the word "JETBLUE" in stylized white lettering. The broken lines are not part of the mark and serve only to show the position of the mark on		

	the tailfin of the airplane.
Goods/Services	Class 039. First use: First Use: 1999/01/12 First Use In Commerce: 1999/01/12 Air transportation services, namely, transportation of passengers, parcels, freight and cargo by air


U.S. Registration No.	3502438	Application Date	04/17/2007
Registration Date	09/16/2008	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	The mark consists of the shape of a tail wing of an airplane with a dark blue background. On top of the dark blue background is a pattern of sets of three concentric circles that alternate with in vertical light blue lines. The concentric circles are displayed three shades of blue, dark blue, blue and light blue, witheach circle displayed in a different shade of blue. The wording jetBlue is displayed in white letters on top of the pattern.		
Goods/Services	Class 039. First use: First Use: 2007/03/23 First Use In Commerce: 2007/03/23 air transportation services, namely, transportation of passengers, parcels, freight and cargo by air		

U.S. Registration No.	3052759	Application Date	01/06/2005
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	Tailfin Design (Mosaic)		
Goods/Services	Class 039. First use: First Use: 2005/02/11 First Use In Commerce: 2005/02/18 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

U.S. Registration No.	2971984	Application Date	06/18/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2002/02/28 First Use In Commerce: 2002/02/28 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

U.S. Registration No.	2449988	Application Date	07/09/1999
Registration Date	05/08/2001	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Transportation of passengers, parcels, freight and cargo by air; providing information about air transportation via a website on a global computer network; travel agency services, namely, making reservations and bookings for transportation; airline passenger services in the nature of a frequent flyer program		

U.S. Registration No.	3163121	Application Date	05/21/2004
Registration Date	10/24/2006	Foreign Priority Date	NONE
Word Mark	JETBLUE		

Design Mark	
Description of Mark	Applicant claims that stylization is a feature of the mark.
Goods/Services	Class 039. First use: First Use: 1999/12/03 First Use In Commerce: 1999/12/03 TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR; PROVIDING INFORMATION ABOUT AIR TRANSPORTATION VIA A WEBSITE ON A GLOBAL COMPUTER NETWORK; MAKING RESERVATIONS AND BOOKINGS FOR TRANSPORTATION; AIRLINE PASSENGER SERVICES IN THE NATURE OF A FREQUENT FLYER PROGRAM

U.S. Registration No.	3163120	Application Date	05/21/2004
Registration Date	10/24/2006	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1999/12/03 First Use In Commerce: 1999/12/03 TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR [; PROVIDING INFORMATION ABOUT AIR TRANSPORTATION VIA AWEBSITE ON A GLOBAL COMPUTER NETWORK; MAKING RESERVATIONS AND BOOKINGS FOR TRANSPORTATION; AIRLINE PASSENGER SERVICES IN THE NATURE OF A FREQUENT FLYER PROGRAM]		

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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mary Sotis/
Name	Mary Sotis
Date	12/18/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Applicant : Andrew M. Ress and Associates, M.D., P.A.
Trademark : JETBOOB & Design
Serial No. : 85/833,347
Filed : January 27, 2013
Published : June 25, 2013
Classes : 039, 044

JETBLUE AIRWAYS CORPORATION,

Opposer,

Opposition No. _____

-v-

ANDREW M. RESS AND ASSOCIATES, M.D., P.A.,

Applicant.

NOTICE OF OPPOSITION

JetBlue Airways Corporation ("Opposer") believes that it will be damaged by the registration of Application Serial No. 85/833,347 for the trademark JETBOOB & Design by Andrew M. Ress and Associates, M.D., P.A. ("Applicant's Mark" applied for by "Applicant") and hereby opposes registration of the same. As discussed *infra*, Opposer will be damaged by the registration of Applicant's Mark because use of JETBOOB & Design in connection with Applicant's services set forth in Application Serial No. 85/833,347 (i) will likely lead to consumer confusion that Applicant's services originate from Opposer, (ii) will falsely suggest a connection, affiliation or endorsement between Applicant and/or its services and Opposer and (iii) will dilute the distinctive quality of Opposer's famous mark. As grounds for this Opposition, Opposer alleges as follows:

1. Opposer has been continuously using its well-known JETBLUE trademark in a highly prominent manner in connection with superior service in every aspect of air travel including providing high quality, low cost air transportation since at least as early as the year 1999. As a result of Opposer's extraordinary efforts, Opposer has become one of the premier and most highly recognized and respected domestic airlines in the United States. Opposer currently serves more than seventy destinations in the United States, Mexico, Caribbean and South America. Through Opposer's longstanding relationships with partner airlines, Opposer serves multiple additional destinations worldwide.

2. As a reflection of its status as a leading domestic airline, Opposer has won numerous awards and industry accolades not only for its superior products and services but also for the JETBLUE brand and image. For example, Opposer recently was named Best Domestic Airline (2012, *Porthole Cruise Magazine Award*), Best Innovative Consumer Experience Concept (2012 *Airports Council International*), Best Airline (2012 *Logo TV's Travel Awards*), Best Airline Website Booking Experience (2011 *U.S. Air Travelers' Choice Award*), Top Low Cost Airline for Customer Satisfaction (2010, 2011 *JD Power and Associates*), Top Rated Large Domestic Airline for Economy and Best In-flight Entertainment (2010 *Zagat Airline Survey*) and #1 Airline Brand (2009, 2010 *Brand Keys Customer Loyalty Engagement Index*).

3. Opposer owns more than twenty-eight federal trademark registrations and pending applications, some of which are incontestable, for the trademark JETBLUE and JETBLUE in combination with another word or words. These registrations and applications include, without limitation and among many others, Reg. Nos. 2451955, 4289126, 4338485, 4338484, 4338483, 3502438, 3052759, 2971984, 2449988, 3163121 and 3163120 for transportation of passengers and organization of travel. Opposer also owns a large number of unregistered marks incorporating or comprising the word JETBLUE used with a variety of goods and services related to travel, organization of travel and air transportation. All of the foregoing are collectively referred to hereafter as "Opposer's Marks."

4. Opposer actively and prominently features Opposer's Marks in widespread and ongoing national and regional advertising and promotional campaigns.

As a result of Opposer's substantial investments in advertising, marketing and promotion, its widespread use of Opposer's Marks and the extensive publicity and news coverage surrounding Opposer, the public and trade have come to associate Opposer's Marks with air transportation, organization of travel and related goods and services emanating exclusively from Opposer. Thus, Opposer's Marks are "famous" as defined under 15 U.S.C. § 1125(c)(1).

5. Opposer's Marks were in use long prior to Applicant's filing date of January 27, 2013 and were already famous at the time Applicant applied to register JETBOOB & Design.

6. Applicant's applied for mark JETBOOB & Design is confusingly similar to Opposer's Marks.

7. Applicant intends to use JETBOOB & Design in connection with services that are identical, or nearly identical, to the services with which Opposer uses Opposer's Marks and to market those services to identical, or nearly identical, customers through identical, or nearly identical, channels of trade as those of Opposer.

8. Opposer will be damaged by the registration sought by Applicant and registration should be refused because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

9. Opposer will be damaged by the registration sought by Applicant and registration should be refused on the ground that Applicant's JETBOOB & Design mark so resembles Opposer's Marks as to cause consumer confusion, mistake and/or to deceive consumers.

10. Opposer will be damaged by the registration sought by Applicant and registration should be refused on the ground that Applicant's Mark falsely suggests a connection, affiliation and/or endorsement between Applicant and/or Applicant's services and Opposer.

11. Opposer will be damaged by the registration sought by Applicant and registration should be refused because the registration or use by Applicant of JETBOOB

& Design in connection with transportation will dilute Opposer's rights in Opposer's Marks.

12. Opposer reserves the right to amend this Notice of Opposition in accordance with applicable Trademark Rules of practice.

WHEREFORE, Opposer respectfully prays for judgment sustaining this opposition and refusing registration to Applicant of the mark in Application Serial No. 85/833,347.

Dated: New York, New York
December 18, 2013

Respectfully submitted,
FRANKFURT KURNIT KLEIN &
SELZ, PC



By:

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(212) 826-5524

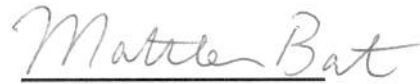
Attorneys for Opposer
JetBlue Airways Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of December 2013, I caused a copy of the foregoing Notice of Opposition to be served, by the means indicated below, upon:

VIA FIRST CLASS MAIL

Joshua M. Gerben, Esq.
Gerben Law Firm, PLLC
1050 Connecticut Ave. NW FL 10
Washington, District of Columbia 20036



Matthew Bart